UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,678	10/16/2001	Jason Lango	020564-000110US	6637

20350	7590	01/14/2005

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EXAMINER
ISMAIL, SHAWKI SAIF

ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
	09/981,678	LANGO ET AL.
Office Action Summary	Examiner	Art Unit	
	Shawki S Ismail	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _10-16-2001_.

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-27_ is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-27_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a) ☐ All   b) ☐ Some *   c) ☐ None of:

　　　　1. ☐ Certified copies of the priority documents have been received.

　　　　2. ☐ Certified copies of the priority documents have been received in Application No. _____.

　　　　3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-27 are presented for examination.

Applicant's claim for priority is acknowledged.

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not include the notary's signature for applicant Robert Tsai, or the notary's signature is in the wrong place.

Double Patenting

2.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,742,082 hereinafter (Lango et al., Patent). Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant application and the Lango et al., Patent relate to an apparatus for caching streaming media and to methods of operation of streaming media caches.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify the terms of claim 1 of the Lango et al., Patent, since the omission or addition of the terms in claim 1 of the Lango et al., Patent would have not changed the process of the invention. Further, it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson,* 136 USPQ 184.

3.   Claim 1, 6, 9 and 27 of the instant application corresponds to claim 1 of the Lango et al., Patent.

Claim 2, 7 and 22 of the instant application corresponds to claim 2 of the Lango et al., Patent.

Claim 3, 4, 11, 12, 16, 17, 23, and 24 of the instant application corresponds to claim 3 of the Lango et al., Patent.

Claim 4 of the instant application corresponds to claim 3 of the Lango et al., Patent.

Claim 5 of the instant application corresponds to claim 18 of the Lango et al., Patent.

Claim 10 of the instant application corresponds to claim 9 of the Lango et al., Patent.

Claim 13 and 18 of the instant application corresponds to claim 18 of the Lango et al., Patent.

Claim 19 of the instant application corresponds to claim 19 of the Lango et al., Patent

Claim 20 of the instant application corresponds to claim 2 and 3 of the Lango et al., Patent.

Claim 21 of the instant application corresponds to claim 15 of the Lango et al., Patent.

Claim 25 of the instant application corresponds to claim 4 of the Lango et al., Patent.

Claim 26 of the instant application corresponds to claim 5 of the Lango et al., Patent.

Claim 8, 9 and 15 of the instant application corresponds to claim 8 of the Lango et al., Patent.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a
> whole would have been obvious at the time the invention was made to a person having
> ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

5.   Claim 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wolf**

et al., (Wolf) U.S Patent No. **6,463,508** and in view of **Lai et al.,** (Lai) U.S. Patent No.

6,593,860.

6.   As to claim 1, Wolf teaches a cache memory configured to store media data to

be output as a media stream, the cache memory comprising:

a plurality of data object files, each data object file individually and directly

accessible by a file system, each data object file comprising a data object configured to

store a portion of the media data (Fig. 1, col. 3, lines 18-25).

Wolfe teaches a session data file configured to store properties of the media

stream 9col. 2, lines 26-37), however Wolf does not explicitly teach wherein the

properties are selected from the class: encoding scheme and duration.

Lai teaches a method and system for transcending media content including

streaming media. The media content that is to be delivered is defined by one or more

variables including source encoding and destination encoding (col. 21, lines 39-57).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the teaching of Lai into the invention of Wolf in order to reduce network latency and increase network transmission. Specific file would be sent to user with certain system requirements in a timely manner.

7.   As to claim 2, Wolf teaches the cache memory of claim 1 wherein a data object comprises an object meta-data portion and a plurality of data chunks (col. 2, lines 26-37),

wherein the object meta-data portion is configured to store a number representing a total number of data chunks in the plurality of data chunks (col. 3, lines 42-64), and

wherein each data chunk of the plurality data chunk are configured to store a subset of the portion the media data (col. 2, lines 26-37).

8.   As to claim 3, Wolf teaches the cache memory of claim 2 wherein each data chunk comprises a chunk meta-data portion, a packet meta-data portion, and a plurality of packet payloads (col. 3, lines 42-64),

wherein the chunk meta-data portion is configured to store a number representing a total number of packet payloads in the plurality of packet payloads (col. 3, lines 42-64),

wherein the packet meta-data portion is configured to store a presentation time for each packet payload (col. 7, lines 43-58), and

wherein each of the plurality of packet payloads are configured to store only a portion of the subset of the portion of the media data (col. 2, lines 26-37).

9.   As to claim 4, Wolf teaches the cache memory of claim 2 wherein each data object has an associated presentation time (col. 7, lines 43-58).

10.   As to claim 5, Wolf teaches the cache memory of claim 4 wherein each data object has an associated duration time selected from the group: approximately: 5 seconds, 10 seconds, 15 seconds, 20 seconds, 30 seconds, 1 minute (col. 7, lines 43-58).

11.   As to claim 6, Wolf teaches the cache memory of claim 2 wherein the object meta-data portion is also configured to store data selected from the group: file format version, beginning presentation time, ending presentation time, file size (col. 7, lines 43-58).

12.   As to claim 7, Wolf teaches the cache memory of claim 3 wherein the data chunk meta-data portion is also configured to store file offsets to adjacent data chunks in the plurality of data chunks (col. 2, lines 26-37).

13.   Claims 8-27 teach essentially the method and computer program product of the above mentioned claim thus they are rejected under the same rationale.

Conclusion

14.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawki S Ismail whose telephone number is 571-272-3985. The examiner can normally be reached on M-F 8:30 - 5:00.

      If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shawki Ismail
Patent Examiner
January 10, 2004

HOSAIN ALAM
SUPERVISORY PATENT EXAMINER